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In Pro Per

FILED
Superior Court of California
County of San Francisco
APR 24 2025
CLERK OF THE COURT
BY: _____
Deputy Clerk

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

GARY M WAITE & DARRYL EVERETT CHRISTOPHER BYRD,

Plaintiffs,

VS

TENDERLOIN HOUSING CLINIC & BOYD HOTEL LLC DOES 1-10,

Defendants.

CASE NO. CGC-25-624116

**COMPLAINT FOR DAMAGES**

1. **Breach of the Implied Warranty of Habitability**
2. **Violation of Statute (Civil Code §§ 1941.1, 1941.3, 1942.4, Health & Safety Code 17920.3)**
3. **Retaliation in Violation of Statute(Civil Code 1942.5)**
4. **Unfair Business Practices in violation of Bus. & Professions Code § 17200**
5. **Violation of Health and Safety Code § 13260**
6. **Nuisance**
7. **Negligence**
8. **Breach of Contract**
9. **Intentional Infliction of Emotional Distress**
10. **Breach of the San Francisco Residential Rent Stabilization Code § 37.3**
11. **Breach of the San Francisco Residential Rent Stabilization Code § 37.10B**
12. **Maintenance of a drug nuisance pursuant to Health & Safety Code § 11570**

**AMENDED COMPLAINT**

**ORAL ARGUMENT REQUESTED**

Case filed: 04/24/2025

Trial Date:

## THE PARTIES

1. Plaintiff Gary M Waite, ("Waite401") is a former resident of the City and County of San Francisco, and prior resident of 41 Jones Street, Unit #401, San Francisco, CA, 94102. 41 Jones Street is an SRO used building at the corner of Jones and Golden Gate Street in San Francisco, CA 94102 ("Premises").

2. Plaintiff Darryl Everett Christopher Byrd, ("Byrd401") is a current resident of the City and County of San Francisco, and prior resident of 41 Jones Street, Unit #401, San Francisco, CA, 94102.

3. Defendant Boyd Hotel LLC, ("LLC"), is an LLC with its principal place of business being 783 28th Ave in San Francisco, California and is the owner t the property located at 41 Jones Street in San Francisco CA, ("Premises").

4. Defendant Tenderloin Housing Clinic, ("Non-Profit), with its principal place of business being 126 Hyde Street in San Francisco, California and is the property management company that manages the property located at 41 Jones Street in San Francisco CA, ("Premises").

5. The true names and capacities of the Defendants sued as Does are unknown to Plaintiffs. Once Plaintiffs became aware of the true names and capacities of Defendants sued as Does, Plaintiffs will amend the Complaint to reflect the true names and capacities of those defendants. In committing the acts complained here, each Defendants, acted as an authorized agent, employees or other representatives of each other Defendant. Each act of each Defendant complaining of herein was committed within the scope of the said agency, employment or other representation.

## JURISDICTION AND VENUE

6. This court is the proper court because the damage to Plaintiffs and the making of their written contract, which is the subject of this action in part, exclusively occurred within its jurisdictional area of the City and County of San Francisco.

7. Plaintiffs have suffered and Defendants have proximately caused property damages, loss of use of property, personal harassment, and general damage that includes loss of use of property, personal injury, bodily injury and emotional distress in amounts to be demonstrated by proof at the time of trial.

8. In committing the acts complained of herein, Defendants acted willfully and with malice, oppression and bad faith, intending by their acts to cause Plaintiffs to involuntarily vacate their homes. Plaintiffs are entitled to recover punitive damages according to law and statute in amounts to be demonstrated by proof at the time of the trial.

9. Plaintiffs were always relevant to the claims made herein lawful residential tenants of Defendants at the Premises located at 41 Jones Street, San Francisco, CA, 94102.

10. Plaintiffs as lessees and Defendants as lessors entered written contracts for the Premises. The contracts, and all of them, were entered into in San Francisco and were intended to be performed here.

11. The contracts provided in relevant part for rent to be paid by Plaintiffs and required Defendants to provide dwellings fit for his residential use. Implied in the contracts were the warranty of habitability and the covenant of quiet use and enjoyment.

12. At the time Defendants rented the Premises to Plaintiffs, and thereafter during the term of Plaintiffs' tenancies, there existed and continued to exist, certain defects in the Premises which render the Premises uninhabitable for occupancy to human beings, and which violated the agreement between Plaintiffs and Defendant for the provision of Premises which were fit for the intended residential use. Said defects did not arise through Plaintiffs' acts or omissions and certain specific defects and problems were noted throughout 2020, 2021, 2022, 2023 and continue into 2024 without adequate subsequent remediations. These habitability defects include, but are not limited to the following:

- non-functioning, poorly functioning and poorly maintained sinks;
- non-functioning, poorly functioning and poorly maintained toilets;
- recurrent, substantial plumbing and pipe leaks;
- structural cracks and some evidence of structural failure;
- water dripping from ceiling indicating past or present roof failure, extreme water intrusion damage;
- non-conforming hazardous and defective plumbing installations and fixtures and severe, toxic, mold infestation;
- Plaintiffs units are plagued by hazardous, dangerous mold, causing Plaintiffs extreme and potentially permanent health problems;
- Most of Plaintiffs' units do not have carbon monoxide detectors, more than half of Plaintiffs' unit do not have working smoke detectors;
- Severe Roach and Mice Infestation
- Safety and Security
- Poor Property Management and Property Owners
- Severe Infection and Disease Received by Plaintiffs including the following:
    - Plaintiffs Waite 47 and Byrd 44 first entered a lease in April 2016 for unit#401 for $500 a month. Plaintiff Waite Suffered a mass breakout on his legs of an unknown rash and swelling that is believed to be caused by rat poop and urine feces. Mr. Waite still has such leg infections as he must take bi-weekly shots for. Mr. Waite still suffers from such an outbreak as of the filing of this document
    - Plaintiff Byrd 44 Suffered a severe flesh-eating disease on both feet believed to have been caused using the showers and being exposed to mice poop and urine feces. Mr. Byrd still has such disease on his feet as of the filing of this document.
    - There is rampant drug use and drug trafficking throughout the building and at least one known unit is used for the exclusive purpose of drug sales and use; The outside of the building is a drug haven and within 3 feet of the front entrance to the building preventing tenants from entering the building.

- There is also frequent prostitution throughout the building and at least one known unit is used for the exclusive purpose of prostitution;
- The building is not properly secured, and there is easy access for pimps, johns and prostitutes, drug dealers and drug buyers, homeless people and anyone else that seeks to enter the building for unlawful purposes. There has been a homeless encampment at the back of the building for the last year and Defendants have failed to take any steps to curtail this activity;
- The entire building, including all of the common areas are filthy, including stained, mold runs rampant and there is blood on the walls and staircases.

13. Plaintiffs have complained repeatedly to Defendants about the defects affecting the habitability of the Premises. Prior to the acts or omissions complained of herein, Defendants knew of defects directly and personally, and were informed of the defective conditions but failed to render the Premises habitable.

14. Defendants had and have actual and constructive knowledge of each defective condition, and failed to correct them all, or in a reasonable period of time, or in any competent and professional manner, or to stop these acts, which were intentional, acts against Plaintiffs.

15. Defendants knew, or in the exercise of ordinary care should have known, that permitting the above-described defective conditions to exist was a threat to the physical and emotional well-being of the Plaintiffs and to the Plaintiffs' material possessions.

16. Defendants owed Plaintiffs a duty of care to avoid injuring the person and property of Plaintiffs. By failing to maintain and repair the Premises with knowledge of the existence of the defective conditions, defendants breached their duty of care to Plaintiffs.

17. As a direct, proximate and foreseeable result of Defendants failure to correct the defective conditions described above, Plaintiffs suffered property damage and economic loss in an amount to be proven.

18. As a direct, proximate and foreseeable result of Defendants failure to correct the defective conditions described above, Plaintiffs suffered damages to their health and strength including damages for emotional and psychological distress. Injuries have caused Plaintiffs

physical, nervous and psychological pain, suffering and anguish. These injuries have caused Plaintiffs general damages according to proof. Additionally, Plaintiffs allege and believe that the bacteria from the mold, roaches and mice has caused severe health complications to various both Plaintiffs.

19. Defendants, knowing at the time of execution of the lease that the units were uninhabitable, and the Premises dangerous and were also aware that they would be negligent in the maintenance of the Premises, included in the contracts an environmental indemnification clause that is against public policy.

20. THC has stated that Mr. Byrd is not a tenant subject to compensation for his suffering and disease however the law states: Live-in caregivers in California are often considered tenants under the law. Employers, as landlords, are required to maintain housing that meets basic living standards, ensuring it is safe, sanitary, and fit for habitation
If a live-in caregiver gets sick because of their stay in the residence, they may be entitled to habitability claims against the landlord or building owner.

21. THC has stated that Mr. Waite is barred from filing any lawsuits against the property management company, however Mr. Waite filed his claim against the building back in November 2023 preceding the signing of the waiver of claims document in November 2024. Mr. Waite was represented by the same counsel he was employed with, and his employer/attorney adamantly removed his name from the filing to hide the fact that Mr. Waite was indeed a full-time employee of the Firm Bryant Law Group LLP and a tenant and litigant in the case against THC as Bryant Law Group was the one suing Tenderloin Housing Clinic. Tenderloin Housing Clinic threatened Bryant Law Group LLP that if they did not fire Mr. Waite in December 2024 THC would proceed with their bar complaint against the lead attorney Edward Higginbotham. Further Mr. Higginbotham and Mr. Fenske, & the opposing counsel for Tenderloin Housing Clinic and the insurer & Various Bryant Law Group attorneys are under investigation into fraud by the California State Bar Association and Mr. Fenske has sent Mr. Waite threatening emails stating that if he did not drop his legitimate claims against THC and the Insurer he would ensure that

Mr. Waite suffered severe consequences and repercussions. Mr. Fenske has retaliated against Mr. Waite because he was the Client Case Coordinator that orchestrated the entire lawsuits against Tenderloin Housing Clinic and Various Property owners throughout San Francisco. Mr. Fenske's clients have forced Mr. Waite to have to temporarily relocate over 225 miles away because of death threats and stalking by various clients on these lawsuits due to the malicious, unlawful, & willful acts of his clients. Exhibit 1 the emails from Mr. Fenske are attached.

22. The scope of a 1542 waiver can often be negotiated to preserve certain rights while still agreeing to a settlement[3].

**FIRST CAUSE OF ACTION**
**(As to all Defendants- Breach of the Implied Warranty of Habitability)**

60. The allegations of Paragraphs 1 through 59 above are realleged and incorporated herein by reference.

61. By renting the Premises to Plaintiffs, Defendants impliedly warranted to provide and maintain those Premises in a habitable condition. Defendants therefore owed a legal duty to Plaintiffs to use due care to provide and maintain habitable Premises. By committing the acts and omissions complained of above, Defendants breached their duty. Defendants, breach of their legal duty caused, and proximately caused, the damages to Plaintiffs complained of above.

62. As a proximate result of Defendant's unlawful acts against Plaintiffs, Plaintiffs have suffered and continues to suffer substantial embarrassment, humiliation and mental anguish damages in an amount according to proof.

63. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively, with the wrongful intention of harassing Plaintiffs, from an improper and evil motive amounting to malice, and in conscious disregard of Plaintiffs' rights and safety. Plaintiffs are therefore entitled to recover punitive damages from Defendants in an amount according to proof.

**SECOND CAUSE OF ACTION**
**(As to all Defendants-Violation of Statutory Warrantee of Habitability under Civil Code sections 1941.1, 1941.3 and Health and Safety Code section 17920.3)**

67. The allegations of Paragraphs 1 through 63 above are realleged and incorporated herein by reference.

68. The laws of the State of California, including but not limited to California Civil Code §§1941.1, 1941.3, and Health & Safety Code § 17920.3 require Defendants to provide and maintain habitable Premises for Plaintiffs. By their acts and omissions Defendants materially breached the requirements of Civil Code §§ 1941, 1941.3 and Health and Safety Code §17920.3 and their duty to Plaintiffs. By that breach, Defendants caused and proximately caused the damages and injuries to Plaintiffs complained of herein, entitling Plaintiffs to damages according to proof.

69. Further, Defendants were informed in writing by a public officer or employee who is responsible for the enforcement of housing laws of the above-enumerated dilapidations and substandard conditions; the conditions existed and were not abated 35 days beyond date of service of the public officer's notice, and were not cause by acts or omissions of the tenants. As such, Plaintiffs are entitled to an award of special damages and the cost of their reasonable attorney fees as detailed in Civil Code section 1942.4.

70. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively, with the wrongful intention of harassing Plaintiffs, from an improper and evil motive amounting to malice, and in conscious disregard of Plaintiffs' rights and safety. Plaintiffs are therefore entitled to recover punitive damages from Defendants in an amount according to proof.

**THIRD CAUSE OF ACTION**
**(As to all Defendants- Retaliation in Violation of Civil Code § 1942.5)**

71. The allegations of Paragraphs 1 through 70 are realleged and incorporated herein by reference.

76. California Civil Code § 1942.5 makes it unlawful for a landlord to retaliate against tenants who complaint about violations of tenability by making threats against such tenants that landlord will bring an action to recover possession, and by bringing an action to recover possession.

77. By their acts, Defendants materially breached the requirements of CCC§ 1942.5, and did so in a fashion that was fraudulent, oppressive, and malicious; Plaintiffs are entitled to an award

of damages according to proof, to an award of punitive damages under CC § 1942.5, and to an award of their reasonable attorney fees under that same section.

**FOURTH CAUSE OF ACTION**
**(As to all Defendants- Unfair Business Practices in Violation of B&P§ 17200)**

78. The allegations of Paragraphs 1 through 77 are realleged and incorporated herein by reference.

79. California Business & Professions Code § 17200 makes it unlawful to engage in unlawful, unfair or fraudulent business acts or practices.

80. By the acts and omissions detailed above Defendants in the renting of real property engaged in business acts and practices which were variously unlawful, unfair, and fraudulent. Plaintiffs are entitled to the restoration of monies taken from them by these unlawful, unfair, and fraudulent business practices.

**FIFTH CAUSE OF ACTION**
**(As to all Defendants- Violation of Health & Safety Code § 13260 et. seq.)**

81. The allegations of Paragraphs 1 through 80 are re-alleged and incorporated herein by reference.

82. California Health and Safety Code section 13260 *et seq.* obligates Defendants to install a carbon monoxide alarm device in each dwelling unit intended for human occupancy on or before January 1, 2013.

83. Defendants failed to install such devices on the Premises, and have not done so.

85. Wherefore Plaintiffs are entitled to an award of actual damages of up to $100, exclusive of court costs and attorney fees, according to proof.

## SIXTH CAUSE OF ACTION
## (As to all Defendants-Nuisance)

86. The allegations of Paragraphs 1 through 85 are realleged and incorporated herein by reference.

87. On or about July 22, 2023, Defendants caused to be submitted to the San Francisco Department of Building Inspection an "affidavit of self-certification" regarding their compliance with the carbon monoxide alarm installation requirements of H&S 13260 and local law.

88. Despite their certification, Defendants have not in fact complied with H&S 13260 and local law, and have not in fact caused carbon monoxide alarms to be installed at the premises.

89. Defendants actions were fraudulent; they intended to mislead the Department of Building Inspection and to avoid their lawful obligation to install carbon monoxide alarms. The acts complained of above constitute a nuisance insofar as they constitute an unreasonable interference with Plaintiffs' use and enjoyment of their property.

90. Insofar as Defendants have received notices of violation from the City and County of San Francisco regarding their failure to install carbon monoxide alarms and have, rather than install such alarms, defrauded the City regarding their installation, Plaintiffs are obligated to bring suit to enforce their interests. Defendants' actions were willful, fraudulent, and malicious, and entitle Plaintiffs to an award of punitive damages.

91. Wherefore Plaintiffs seek abatement of the nuisance, damages according to proof, and an award of punitive damages to deter such conduct on Defendants' part in the future.

## SEVENTH CAUSE OF ACTION
## (As to all Defendants-Negligence)

92. The allegations of Paragraphs 1 through 80 are re-alleged and incorporated herein by reference.

93. Defendants by their relationship as landlords owed a duty of care to Plaintiffs.

94. Defendants by the acts and omissions detailed above breached their duty of care to Plaintiffs.

95. Defendants' breach of their duty of care proximately caused the damages suffered by Plaintiffs.

96. Wherefore Plaintiffs are entitled to damages according to proof.

**EIGHTH CAUSE OF ACTION**
**(As to all Defendants-Breach of Contract)**

97. The allegations of Paragraphs 1 through 96 are realleged and incorporated herein by reference.

98. In committing the acts complained of above, Defendants breached the terms of the rental agreements for the Premises for the provision of dwellings fit for their intended use. Each of these Plaintiffs executed a written rental agreement similar if not identical to the rental agreement attached to this complaint and marked as Exhibit "A".

99. Wherefore Plaintiffs seek damages according to proof.

**NINTH CAUSE OF ACTION**
**(As to all Defendants-Intentional Infliction of Emotional Distress)**

100. The allegations of Paragraphs 1 through 99 are realleged and incorporated herein by reference.

101. Defendants' acts and failures to act as alleged herein are extreme and outrageous conduct beyond all bound of decency.

102. Defendants conduct was knowing, intentional and willful. Defendants had full knowledge or substantial certainty of the extreme mental distress that their conduct would cause Plaintiffs. Defendants acted with intentional disregard for the reasonable foreseeable consequences of their actions.

103. Defendants acted with the intention of causing, and/or reckless disregard for the probability of causing, emotional distress to Plaintiffs when they, *inter alia,* failed to make timely and necessary repairs to the Premises as required under the implied warranty of habitability, intentionally interfered with Plaintiff's quiet use and enjoyment of the Premises, and in retaliation of Plaintiff's complaints served them with an eviction notice.

104. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs have suffered extreme mental distress to their general detriment in an amount according to proof. Plaintiffs have suffered stress, worry, and anxiety as a result of Defendants' acts.

105. The the actions of Defendants as described above were done with oppression, fraud, and malice as defined in Civil Code § 3924. Accordingly, Plaintiff should recover, in additional to actual damages, damages to make an example of and to punish Defendant.

**TENTH CAUSE OF ACTION**
**(By Plaintiffs Hugo56, Vilma 56 and May 50, as to all Defendants-Breach of of the San Francisco Residential Rent Stabilization Code § 37.3)**

106. The allegations of Paragraphs 1 through 105 are realleged and incorporated herein by reference.

107. Section 37.11A of the Ordinance states "Whenever a landlord charges a tenant a rent which exceeds the limitations set forth in this Chapter, retaliates against a tenant for the exercise of any rights under this Chapter, or attempts to prevent a tenant from acquiring any rights under this Chapter, the tenant may institute a civil proceeding for money damages."

108. Section 37.3 of the Ordinance defines the circumstances by which a landlord may lawfully increase the base rent for a rental unit. No such circumstances existed with respect to the rent increases alleged in the complaint.

109. Defendants and each of them intended to, and subsequently did, deprive Plaintiffs of their rights under Section 37.3 of the Ordinance by unlawfully raising Plaintiffs' rent.

110. As a result of defendants' violations of Section 37.11A of the Ordinance, Plaintiffs were required to retain counsel to enforce their legal rights, and are entitled to their damages according to proof and their reasonable attorney fees.

**ELEVENTH CAUSE OF ACTION**
**(As to all Defendants-Breach of the San Francisco Residential Rent Stabilization Code § 37.10B)**

111. The allegations of Paragraphs 1 through 110 are realleged and incorporated herein by reference.

112. Section 37.10B of the Ordinance prohibits landlords or their agents from engaging in certain conduct in bad faith. Those prohibited include:

a. Interrupting, terminating, or failing to provide housing services required by contract or by State, County or local housing, health and safety laws;

b. failing to perform repairs and maintenance required by contract or by State, County or local housing, health or safety laws;

c. interfering with a tenant's right to quiet use and enjoyment of a rental housing unit as that right is defined by California law;

d. influencing or attempting to influence a tenant to vacate a rental housing unit through fraud, intimidation or coercion; and

e. Threaten the tenant, by word or gesture, with physical harm;

f. Violate any law which prohibits discrimination based on actual or perceived race, gender, sexual preference, sexual orientation, ethnic background, nationality, place of birth, immigration or citizenship status, religion, age, parenthood, marriage, pregnancy, disability, AIDS or occupancy by a minor child.

g. Interfere with a tenants right to quiet use and enjoyment of a rental housing unit as that right is defined by California law;

h. Refuse to accept or acknowledge receipt of a tenant's lawful rent payment;

i. Interfere with a tenant's right to privacy.

j. Request information that violates a tenant's right to privacy, including but not limited to residence or citizenship status or social security number.

k. Other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of such dwelling unit and that cause, are likely to cause, or are intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy.

113. Defendants and each of them intended in bad faith to, and subsequently did, consciously, intentionally, and in bad faith violate Plaintiff's rights under Section 37.10B of the Ordinance, including by failing and refusing to promptly and diligently perform legally-required repairs and maintenance to the Premises, and by violating the Plaintiff's quiet enjoyment rights. As a direct,

proximate and foreseeable result of defendants' misconduct, Plaintiffs have suffered damages in an amount to be proven at trial, but in excess of $10,000,000.00.

114. Pursuant to Section 37.10B(c)(5) of the Ordinance, Plaintiffs are entitled to damages(with respect to each and every offense violating Section 37.10B of the Ordinance) from defendants and each of them in an amount not less than three (3) times Plaintiff's actual damages or statutory damages in the sum of $1000.00 per violation, whichever is greater.

115. The acts of defendants and each of them, as heretofore alleged, were extreme and outrageous and done with conscious disregard for the rights of Plaintiffs, and in deliberate and callous disregard of the habitability and quiet enjoyment complaints made by Plaintiffs. Defendants knew that Plaintiffs were susceptible to added discomfort as a result of the conduct described, knew that the conduct adversely affects Plaintiffs, had the wherewithal to remedy the defective housing conditions and quiet enjoyment violations, but consciously refused to do so, in deliberate violation of Plaintiffs' legal rights. Plaintiffs are therefore entitled to Punitive damages under Civil Code Section 3294 as against defendants in an amount according to proof.

116. As a result of defendants' violations of Section 37.10B of the Ordinance, Plaintiffs were required to retain counsel to enforce their legal rights, and are entitled to an award of attorney fees.

**TWELFTH CAUSE OF ACTION**
**(As to all Defendants-Breach of Health & Safety Code § 11570)**
**(Drug Nuisance Abatement-Health & Safety Code § 11570)**

117. The allegations of Paragraphs 1 through 116 are realleged and incorporated herein by reference.

118. Plaintiffs bring this action pursuant to California Health and Safety Code section, 11571.5, to enjoin and abate nuisances caused by acts of unlawful selling, serving, storing, keeping, manufacturing or giving away of any controlled substance, precursor or analog as specified in the California Health and Safety Code.

119. Defendants, as owners of the Property, and Does 1 through 50, as employees and agents of the owner of the Property, have been using, maintaining, or permitting the use of these premises

for the unlawful sale, storage, maintenance or manufacturing of controlled substances for at least the last year.

120. The maintenance and existence of the premises at the Property as a place used for the unlawful sale, storage, distribution or manufacture of controlled substances, and as a place where unlawful drug activities have taken place and are now taking place, constitutes a public nuisance pursuant to California Health and Safety Code section 11570 et seq.

121. The nuisance has not been abated. Unless Defendants are enjoined by an order of this Court, they will continue to use, occupy, maintain, and allow or permit the use, occupation and maintenance of this Property, together with fixtures and movable property located therein, for the unlawful drug activities alleged in this complain, and encourage the further maintenance of this nuisance on these premises, to the irreparable damage of Plaintiffs, all other tenants and the general public.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment as follows:

A. That the property at 41 Jones Street in San Francisco, California together with the fixtures and movable property therein and thereon, be declared a public nuisance and permanently abated in accordance with sections 11570 through 11581 of the California Health and Safety Code;

B. For general and special damages according to proof;

C. For statutory damages;

D. That a civil penalty not to exceed Twenty-Five thousand Dollars ($25,000.00) be assessed against each Defendant pursuant to California Health and Safety Code 11581, et seq.;

E. That Defendants be ordered to abate all conditions which cause the nuisance;

F. That Defendants be enjoined from occupying the Property and/or allowing the Property to be occupied until such time as the building on the Property is brought up to code or demolished;

G. For Defendant David "Zeke" Weiner and their respected attorneys Mark Fenske by forced to reside at one of the units in the building until all habitability and drug nuisances are abated in accordance with Health & Safety Code 11573.5(f)(1)(H);

H. Prejudgment interest, unless duplicative of relief obtained under other causes of action;

I. For attorney's fees pursuant to statute including but not limited to California Civil Code §§ 1941.1, 1942.4, Health & Safety Code 11352;

J. That Defendants disgorge all wrongfully retained profits under Business and Professions Code section 17200;

K. For punitive damages according to proof;

L. For any and all other relief which the Court deems proper and just.

Dated: April 24th, 2025, Respectfully Submitted

Gary M Waite
Plaintiff

Darryl Everett Christopher Byrd
Plaintiff

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# EXHIBIT 1

## Emails to and from Mark Fenske

Mark D. Fenske

Vogl Meredith Burke & Streza LLP

456 Montgomery St., Suite 1300

San Francisco, CA 94104

O: 415.398.0200

D: 415.616.0471

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**Gary Waite** <garym.waite78@gmail.com> Mon, Apr 21, 2025 at 2:15 PM
To: "Mark D. Fenske" <mfenske@vmbllp.com>

Mark,

First let me say to you that THC. Boyd Hotel LLC, and David Weiner were properly served as I will be getting the second proof of service filed today.

As far as your claim to privileged information with the Bar Complaint no longer became privileged once illegal action was done to cause myself imminent harm and subject to criminal prosecution. Attorney Edward Higginbotham shared the confidential and private information from the Bar Association and shared this information clients that caused immigrate harm and threats of such harm THC and their employees are held liable because they are not innocent agents acting on behalf of the principal they are subject to civil and criminal liability. This case is the largest investigation in State Bar history. Fraud in the inducement nullifies any contract and Mr. Fenskr are also subject to state bar infractions.

Thirdly the habitabolity and implied warranty lawsuit I was already a part of from the beginning again Edward Higginbotham illegally removed me from that lawsuit the preceeded the $10,000.00 agreement for the key. I will challenge all your allegations in court and the judge very well may incur sanctions against yourself, THC, its Employees, and Bryant Law Group.

These lawsuits not only have merit at 400 Mc Allister but also 850 Bryant Street. If you don't believe me ask the bar association or my new attorney for both of these cases. I have throughly investigated the merits of both lawsuits and they have serious repercussions against the defendants.

Thanks a Bunch
Gary Waite
Lead Tenant Organizer
415-846-0060
[Quoted text hidden]

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Vogl Meredith Burke & Streza LLP
ATTORNEYS AT LAW

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27K

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**Mark D. Fenske** <mfenske@vmbllp.com> Mon, Apr 21, 2025 at 3:47 PM
To: Gary Waite <garym.waite78@gmail.com>

Mr. Waite,

If you are now represented by a licensed attorney in either of these cases, please provide me immediately with their name and contact information.

[Quoted text hidden]

Gmail

Gary Waite <garym.waite78@gmail.com>

## Recent lawsuits filed against THC

**Mark D. Fenske** <mfenske@vmbllp.com>
To: Gary Waite <garym.waite78@gmail.com>

Mon, Apr 21, 2025 at 1:47 PM

Mr. Waite,

We've learned that you have recently filed two new lawsuits against Tenderloin Housing Clinic and some of its employees in San Francisco Superior Court. I'm writing to meet and confer to encourage you dismiss these lawsuits now before you become liable for paying THC and its employees' costs and fees and have civil judgments entered against you.

First off, neither lawsuit has been served properly on THC or any of the individual employees, and this communication should not be seen as a waiver of the service requirements.

In one lawsuit, case # CGC-25-624055, you appear to be attempting to sue THC, David Weiner and Camlo Looper for defamation (i.e., slander and libel) for allegedly writing that the "Bryant law Group had hired an ex-felon" in a Complaint to the State Bar. Business & Professions Code section 6094 explicitly provides that the statements made in the State Bar Complaint are absolutely privileged and "no lawsuit predicated thereon may be instituted against any person." Therefore, even if the allegations in your complaint were true, your lawsuit is precluded by statute and will be subject to being summarily dismissed at its inception.

In the second lawsuit, case # CGC-25-624116, you have attempted to allege breach of the implied warranty of habitability and other claims related to the condition of the Boyd Hotel during your tenancy there. This lawsuit too is subject to an absolute defense in that the Release of claims that you signed at the time of your eviction from that property, and for which you received $10,000 in return, released THC and its employees, agents, etc. from all claims, known or unknown, that arose out of, resulted from, or were in any way connected with your tenancy at that property. Therefore, this lawsuit will be subject to being summarily dismissed as well.

In light of the above, please confirm that you will be dismissing both actions. If you do not, and you move forward with service, please be on notice that we will respond not only by moving for dismissal and seek a judgment against you for litigation costs and fees incurred in each action, but may also seek attorney's fees as sanctions for knowingly filing lawsuits that have no legal merit for improper purposes.

Regards,

VMB&S Vogl Meredith Burke & Streza LLP
ATTORNEYS AT LAW

Mark D. Fenske

## Business and Professions Code

**Gary Waite** <garym.waite78@gmail.com>
To: "Mark D. Fenske" <mfenske@vmbllp.com>

Wed, Apr 23, 2025 at 12:48 PM

Mark,

I will provide you with my attorney's name and information as soon as the Contingent agreement and Representation letter are complete. Until such time by week's end let me provide you with the Bars response.

You quoted section A in your email. Please note at the time the Bar Complaint was filed I was not a licensed, attorney, informant, or anything of the such so therefore let's look at section B Upon the state bars notice to the superior court the court (May) not shall provide immunity to David Zeke Weiner. Since I am not an attorney that was affected by his complaint and I was just a mere employee and litigant in the habitability case I am not barred from initiating a lawsuit for defamation against David "Zeke" Weiner.

In legal terms, the word "may" is an expression of possibility, a permissive choice to act or not, and ordinarily implies some degree of discretion. This contrasts with the word "shall," which is generally used to indicate a mandatory provision. In statutes and sometimes in contracts, the word "may" must be read in context to determine if it means an act is optional or mandatory, for it may be an imperative.

# California Code, Business and Professions Code - BPC § 6094

(a) Communications to the State Bar relating to lawyer misconduct or disability or competence, or any communication related to an investigation or proceeding and testimony given in the proceeding are privileged, and no lawsuit predicated thereon may be instituted against any person. The State Bar and officers and employees are subject to the rules governing liability of public entities, officers, and employees specified in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

Nothing in this subdivision limits or alters the privileges accorded communications to the State Bar or testimony given in investigations or proceedings conducted by it or the immunities accorded complainants, informants, witnesses, the State Bar, its officers, and employees as existed prior to the enactment of this section. This subdivision does not constitute a change in, but is cumulative with the existing law.

(b) Upon application by the State Bar and notice to the appropriate prosecuting authority, the superior court may grant immunity from criminal prosecution to a witness in any State Bar proceeding.

**As a result of your clients maleficence to cause physical harm to me I had to temporarily relocate 225 Miles away to prevent serious injury or death.**

**I will be filing a temporary restraining order or injunction against your client(s) ASAP**

**Thanks a Bunch**
Gary Waite
Tenant Organizer
415-877-0496

Gmail

Gary Waite <garym.waite78@gmail.com>

# Proper Service and Removal of Camlo Looper

1 message

**Gary Waite** <garym.waite78@gmail.com> Wed, Apr 23, 2025 at 1:10 PM
To: "Mark D. Fenske" <mfenske@vmbllp.com>

I will be removing Camlo Looper from the Defamation case as David "Zeke" Weiner was the one who filed the Bar Complaint. I will be sending a new set of documents and POS-010 and POS-015 for both Lawsuits.

Thanks a Bunch
Gary Waite
Tenant Organizer
415-877-0496

Gmail **Gary Waite <garym.waite78@gmail.com>**

# Fraid

2 messages

**Gary Waite** <garym.waite78@gmail.com> Fri, Mar 14, 2025 at 8:13 AM
To: "Mark D. Fenske" <mfenske@vmbllp.com>

Mark

I want to report fraud committed by Edward Higginbotham and Paul Alaga in the submission of evidence around the Seneca. I am prepared to give a formal testimony to you. I wanted to give you the opportunity to address it with me before going to the State Bar Association. Please get back to me as soon as possible.

Thanks a Bunch
Gary Waite
Lead Tenant Organizer
415-877-0496

---

**Gary Waite** <garym.waite78@gmail.com> Wed, Mar 19, 2025 at 11:18 AM
To: "Laguna, Stacia" <Stacia.Laguna@calbar.ca.gov>

Thanks a Bunch
Gary Waite
Tenant Organizer
415-902-8464
[Quoted text hidden]

## California State Bar Complaint

9 messages

**Gary Waite** <garym.waite78@gmail.com> Mon, Mar 17, 2025 at 6:53 PM
To: "Mark D. Fenske" <mfenske@vmbllp.com>

Mark,

I reached out to you last week regarding fraud on the Seneca hotel case. It is the duty of an attorney in the state of California to do whatever they can do to prevent malicious, fraudulent, and false claims against their clients.

**False or Malicious Complaints:**
Filing a complaint with the State Bar that is false or malicious, and then withdrawing it for financial gain, could be considered a crime or lead to disciplinary action.

Business and Professions Code § 6043.5:
This code section addresses false and malicious reports or complaints, potentially leading to criminal penalties or disciplinary action.

Rule 3.3:
Rule 3.3, Candor Toward the Tribunal, addresses the duty to disclose the falsity of evidence, which could be relevant if a lawyer is involved in a case related to a withdrawn complaint.

Please get back to me ASAP before the Bar Complaint meeting on March 20th 2025. I have formally made you aware of the fraud and you have a duty as an attorney to act.

Thanks a Bunch
Gary Waite
Tenant Organizer
415-877-0496

**Mark D. Fenske** <mfenske@vmbllp.com> Tue, Mar 18, 2025 at 8:32 AM
To: Gary Waite <garym.waite78@gmail.com>
Cc: "E. Forrest Shryock, Jr." <fshryock@vmbllp.com>

Mr. Waite,

I am very confused by your emails and am not sure what you are trying to communicate. First, you are not and have never been a client of mine or my firm. To the contrary, you have been a plaintiff in a lawsuit filed against Tenderloin Housing Clinic, whom we were retained to defend in that lawsuit. I do not owe any duty to you as a "client."

Second, if you are implying that I submitted a false or malicious complaint to the State Bar, you are absolutely mistaken. I have never filed or submitted a complaint to the State Bar about anyone - ever.

What I understood your prior email to me to be was an offer to provide information about your former attorney, Ed Higginbotham, concerning fraud he may have perpetrated against Tenderloin Housing Clinic in connection with the lawsuits his firm filed on behalf of tenants of various THC-managed SROs. In that regard, you may be a witness whom we will subpoena for testimony as those cases progress. But, again, as you are not and have never been our client, I do not have any obligation to respond to your communications to me.

Regards,

VB&S Vogl Meredith Burke & Streza LLP
ATTORNEYS AT LAW

Mark D. Fenske

Vogl Meredith Burke & Streza LLP

456 Montgomery St., Suite 1300

San Francisco, CA 94104

O: 415.398.0200

D: 415.616.0471

[Quoted text hidden]

**Gary Waite** <garym.waite78@gmail.com> Tue, Mar 18, 2025 at
To: "Mark D. Fenske" <mfenske@vmbllp.com>
Cc: "E. Forrest Shryock, Jr." <fshryock@vmbllp.com>

Mark,

I worked for the law firm Bryant Law Group LLP when the fraud was committed. I am informing you because as your duty to your clients it is mandatory to investigate all allegations of fraud. If proceed with a lawsuit that you have been made aware of that contains elements of fraud my attorney or not it is my duty to report to the Bar Association that you were made aware of the frau proceeded anyway to allow Bryant Law Group LLP to seek relief from your clients when fraud in the inducement was committed. I was not a member of the THC habitability complaints.when i were filed in court.

Misrepresentation

A misrepresentation is a false or misleading statement or a material omission which renders other statements misleading, with intent to deceive. Misrepresentation is one the elements of com law fraud , and other causes of action for fraud, such as Securities Fraud.

Voidable

voidable means a contract is valid unless rejected by a party with the legally protected option of doing so.

Fraud in the Inducement

**Copilot Answer**

Images Videos

Fraud in the inducement is a type of contract fraud that occurs when one party uses deceitful practices to persuade the other party to act against their best interests. This is done by making fraudulent statements and representations that trick the other party into signing an agreement to their disadvantage. Fraud in the inducement involves misrepresenting a material fact to the victim, who relies on it to their detriment, with the intent to deceive. The injured party can seek damages or terminate the contract.

Even though you are not my attorney it is my duty to bring to your attention the malicious acts of the attorney of record for these cases.. Since I was the Client Case Coordinator for Bryant Law Group at the time the fraud was committed I am obligated under the State Bar Regulations to inform you of the fraud. If you continue to allow Bryant Law Group to seek remedy in this case you could be in violation of state bar regulations. If an attorney in California has been made aware of fraud in a case, their duty is to advise their client that the actions of another attorney constitute fraud. The lawyer should also report any professional misconduct of another lawyer without undue delay.

In addition, an attorney must not enter into any agreement, or even offer to enter into any agreement, to not report reportable misconduct under Rule 8.3. Rule 5.6 of the California Rules of Professional Conduct (Restrictions on a Lawyer's Right to Practice) provides: "A lawyer shall not participate in offering or making an agreement which precludes the reporting of a violation of these rules."[15] As a result, the attorney may be subject to discipline not only for failing to comply with Rule 8.3 (if the attorney knows of reportable misconduct that has occurred), but also for agreeing (or offering to agree) to not report such misconduct (whether or not reportable misconduct has occurred).[16]

The adoption of new Rule 8.3 appears to be (at least in part) yet another response to the scandals surrounding former attorney Tom Girardi,[21] despite the fact that the State Bar had in fact received hundreds of complaints regarding his conduct over several decades before he was ultimately disbarred.

Although the reporting obligation contained in Rule 8.3 is new to California, every other state in the country already has a mandatory reporting rule for attorney misconduct.[22] It appears that there have been relatively few instances where discipline was imposed against attorneys in other states for violation of such reporting obligations, and those few instances generally involve clear and blatant violations of the applicable reporting obligation, especially where there were other grounds for discipline in addition to the failure to report.

Therefore, I respectfully ask to show you and point out to you the fraud that has been committed before my meeting with the State Bar Association on Thursday March 20th 2025

Thanks a Bunch
Gary Waite
Lead Tenant Organizer
415-877-0496
[Quoted text hidden]

image001.png
27K

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**Gary Waite** <garym.waite78@gmail.com> Wed, Mar 19, 2025 at 11:17 AM
To: "Laguna, Stacia" <Stacia.Laguna@calbar.ca.gov>

Thanks a Bunch
Gary Waite
Tenant Organizer
415-902-8464

——— Forwarded message ———
From: **Gary Waite** <garym.waite78@gmail.com>
Date: Mon, Mar 17, 2025 at 6:53 PM
Subject: California State Bar Complaint
To: Mark D. Fenske <mfenske@vmbllp.com>

[Quoted text hidden]

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**Mark D. Fenske** <mfenske@vmbllp.com> Mon, Apr 14, 2025 at 11:46 AM
To: Gary Waite <garym.waite78@gmail.com>
Cc: "E. Forrest Shryock, Jr." <fshryock@vmbllp.com>

Mr. Waite,

We are representing Camlo Looper in a newly filed Declaratory Relief action in which he seeks to have your Complaint filed in action CGC-24-613804 sealed in part by the Court. The Complaint for Declaratory Relief names you as a defendant, but does not seek any monetary or other affirmative relief from you.

Please reply to advise whether you will agree to accept service of the Declaratory Relief Complaint and Motion to Seal by email. If not, please provide us with your current physical address for service.

Regards,

Mark D. Fenske

Vogl Meredith Burke & Streza LLP

456 Montgomery St., Suite 1300

San Francisco, CA 94104

O: 415.398.0200

D: 415.616.0471

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**From:** Gary Waite <garym.waite78@gmail.com>
**Sent:** Tuesday, March 18, 2025 9:23 AM
**To:** Mark D. Fenske <mfenske@vmbllp.com>
**Cc:** E. Forrest Shryock, Jr. <fshryock@vmbllp.com>
**Subject:** Re: California State Bar Complaint

Mark,

I worked for the law firm Bryant Law Group LLP when the fraud was committed. I am informing you because as your duty to your clients it is mandatory to investigate all allegations of fraud. If you proceed with a lawsuit that you have been made aware of that contains elements of fraud my attorney or not it is my duty to report to the Bar Association that you were made aware of the fraud but proceeded anyway to allow Bryant Law Group LLP to seek relief from your clients when fraud in the inducement was committed. I was not a member of the THC habitability complaints.when they were filed in court.

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

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**Gary Waite** <garym.waite78@gmail.com> Mon, Apr 14, 2025 at 12:02 PM
To: "Mark D. Fenske" <mfenske@vmbllp.com>
Cc: "E. Forrest Shryock, Jr." <fshryock@vmbllp.com>

Why would he want to have my case sealed in part?

Thanks a Bunch
Gary Waite
Lead Tenant Organizer
415-846-0060
[Quoted text hidden]

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**2 attachments**

**~WRD0000.jpg**
1K

**image001.png**
27K

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**Mark D. Fenske** <mfenske@vmbllp.com> Mon, Apr 14, 2025 at 12:04 PM
To: Gary Waite <garym.waite78@gmail.com>
Cc: "E. Forrest Shryock, Jr." <fshryock@vmbllp.com>

The Declaratory Relief Complaint and the motion explains why. You can read it when they're served.

[Quoted text hidden]

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**Gary Waite** <garym.waite78@gmail.com> Mon, Apr 14, 2025 at 12:06 PM
To: "Mark D. Fenske" <mfenske@vmbllp.com>
Cc: "E. Forrest Shryock, Jr." <fshryock@vmbllp.com>

I give permission to seve via email

Thanks a Bunch
Gary Waite
Lead Tenant Organizer
415-846-0060

[Quoted text hidden]

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**3 attachments**

**image001.png**
27K

**image002.jpg**
1K

**image001.png**
27K

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**Mark D. Fenske** <mfenske@vmbllp.com> Mon, Apr 14, 2025 at 12:09 PM

To: Gary Waite <garym.waite78@gmail.com>
Cc: "E. Forrest Shryock, Jr." <fshryock@vmbllp.com>

Noted. Thanks.

[Quoted text hidden]

Gmail Gary Waite <garym.waite78@gmail.com>

# Mug Shot Posted in THC hotels

1 message

**Gary Waite** <garym.waite78@gmail.com> Mon, Feb 10, 2025 at 5:42 PM
To: "Mark D. Fenske" <mfenske@vmbllp.com>

Mark,

Tenderloin housing sent a directive email with my mug shot instructions to all Property Managers to print and post my mug shot up in all THC hotels.. I sent a notice of intent to sue THC for their slanderous Defamous behavior and Now will have to add the mug shot photos posted in THC hotels as well..

THC posted false information to the state bar association which is a felony and can be punished by jail time. Please advise your client to remove the mug shot photographs from all THC hotels.

Thanks a Bunch
Gary Waite
Tenant Organizer
415-877-0496

Gmail Gary Waite <garym.waite78@gmail.com>

# Notice Of Intent to Sue

1 message

**Gary Waite** <garym.waite78@gmail.com> Mon, Jan 20, 2025 at 7:16 PM
To: Camlo Looper <camlo@thclinic.org>, Zeke Weiner <zeke@thclinic.org>, "Mark D. Fenske" <mfenske@vmbllp.com>

Please see attached and respond to me within 7 days if you intend to participate in negotiations.

Thanks a Bunch
Gary Waite
Tenant Organizer
415-877-0496

**Tenderloin Housing Clinic Notice of Intent to Sue.pdf**
973K

# LETTER OF INTENT TO SUE

January 20, 2025

**RE: Notice of Intent to Initiate Legal Proceedings**

Dear Camlo Looper & David "Zeke" Weiner,

I am writing to formally notify you of my intent to commence legal action against you due to Assault,Slander, Defamation of Character, Libel, Abuse of discretion, Abuse of Power, Retaliation & Abuse of Authority. Camlo Looper and David "Zeke" Weiner submitted a State of California Bar complaint in an attempt to Slander, a defame the character and integrity of Gary Waite to the Bar Association. David "Zeke" Weiner said that Edward Higginbotham and or Bryant Law Group hired an Ex Felon to work for him and or the Law Firm. David "Zeke" Weiner conspired with Camlo Looper to submit false information to the state bar association as fraud. Mr. Waite is not an ex felon as his criminal record has been expunged and any felonies have be reduced and or commuted to a misdemeanor. David "Zeke" Weiner and Camlo Looper knowingly and intentionally retaliated against Gary Waite for assisting Edward Higginbotham and Bryant Law Group to organize lawsuits around their habitability issues in their SRO Hotels. When Mr. Waite Successfully stayed an eviction against him for organizing a lawsuit against Tenderloin Housing Clinic for 9 months after the eviction was handed down. Tenderloin Housing Clinic had to pay Mr. Waite $10,000.00 for malicious eviction and to leave the premises. This assault and retaliation and Slander and defamation of character caused Mr. Waite great harm even the Likely potential of great bodily harm. When someone's actions contribute to the assault or threat of assault against another person, it is legally referred to as "assault"; specifically, if their actions create a reasonable apprehension of imminent harmful or offensive contact in the victim, even if physical contact doesn't occur.. Despite previous attempts to resolve this matter amicably, I find no satisfactory resolution has been reached.

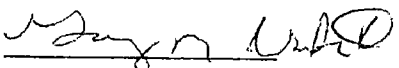
Therefore, I am prepared to initiate legal proceedings to seek compensation and remedial measures. However, I am willing to consider an alternative resolution to avoid court action. To that end, I am formally demanding I am demanding that Camlo Looper, David "zeke" Weiner and Tenderloin Housing Clinic pay Gary Waite an amount equivalent to $20,000.00 to end this claim and not proceed with a lawsuit against them for the things outlined above. to resolve this matter completely.

Please consider this letter a formal demand for settlement. I expect a response within 7 days of the date of this letter. Failure to respond may result in the initiation of legal proceedings without further notice to you. This action will not only seek resolution as mentioned but may also include recovery of attorney's fees, court costs, and other damages legally

allowable.

I urge you to take this notice seriously and respond promptly to avoid legal action. Should you have any questions or wish to discuss this matter further, please contact me directly at (415) 877-0496 or garym.waite78@gmail.com.

Sincerely,



Gary M Waite

POS-010

| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): | FOR COURT USE ONLY |
|---|---|
| GARY M WAITE<br>PO BOX 420545<br>SAN FRANCISCO, CA 94142<br><br>TELEPHONE NO.: 415-877-0496 FAX NO. (Optional):<br>E-MAIL ADDRESS (Optional): garym.waite78@gmail.com<br>ATTORNEY FOR (Name): | ENDORSED<br>FILED<br>Superior Court of California<br>County of San Francisco<br><br>APR 14 2025<br><br>CLERK OF THE COURT<br>BY: AUSTIN LAM<br>Deputy Clerk |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO<br>STREET ADDRESS: 400 Mc Allister Street<br>MAILING ADDRESS: Room 103<br>CITY AND ZIP CODE: San Francisco, CA 94102<br>BRANCH NAME: Unlimited Civil Division | |
| PLAINTIFF/PETITIONER: GARY M WAITE<br>DEFENDANT/RESPONDENT: TENDERLOIN HOUSING CLINIC & BOYD HOTEL LLC AND DOES | CASE NUMBER:<br>CGC-25-624116 |
| **PROOF OF SERVICE OF SUMMONS** | Ref. No. or File No.: |

*(Separate proof of service is required for each party served.)*

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
   a. [x] summons
   b. [x] complaint
   c. [ ] Alternative Dispute Resolution (ADR) package
   d. [x] Civil Case Cover Sheet *(served in complex cases only)*
   e. [ ] cross-complaint
   f. [ ] other *(specify documents):*
3. a. Party served *(specify name of party as shown on documents served):*
      TENDERLOIN HOUSING CLINIC
   b. [ ] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3a):*
4. Address where the party was served:
   39 JONES STREET SAN FRANCISCO CA 94102 & 783 28TH AVE SAN FRANCISCO, CA 94121
5. I served the party *(check proper box)*
   a. [ ] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* (2) at *(time):*
   b. [ ] **by substituted service.** On *(date):* at *(time):* I left the documents listed in item 2 with or in the presence of *(name and title or relationship to person indicated in item 3):*
      (1) [x] **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
      (2) [ ] **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
      (3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
      (4) [ ] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* from *(city):* **or** [ ] a declaration of mailing is attached.
      (5) [ ] I attach a **declaration of diligence** stating actions taken first to attempt personal service.

| PLAINTIFF/PETITIONER: Gary M Waite<br>DEFENDANT/RESPONDENT: Tenderloin Housing Clinic/Boyd Hotel LLC | CASE NUMBER: CGC-25-624116 |
|---|---|

5. c. [X] **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
   (1) on *(date):* 4/10/2025 (2) from *(city):* SAN FRANCISCO, CA
   (3) [ ] with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. *(Attach completed* Notice and Acknowledgement of Receipt.*)* (Code Civ. Proc., § 415.30.)
   (4) [ ] to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
   d. [ ] **by other means** *(specify means of service and authorizing code section):*

   [ ] Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:
   a. [X] as an individual defendant.
   b. [ ] as the person sued under the fictitious name of *(specify):*
   c. [ ] as occupant.
   d. [ ] On behalf of *(specify):*
   under the following Code of Civil Procedure section:

| | |
|---|---|
| [X] 416.10 (corporation) | [ ] 415.95 (business organization, form unknown) |
| [ ] 416.20 (defunct corporation) | [ ] 416.60 (minor) |
| [ ] 416.30 (joint stock company/association) | [ ] 416.70 (ward or conservatee) |
| [ ] 416.40 (association or partnership) | [ ] 416.90 (authorized person) |
| [ ] 416.50 (public entity) | [ ] 415.46 (occupant) |
| | [ ] other: |

7. **Person who served papers**
   a. Name: Ramona M Penikila
   b. Address: 34 6th Street Apt 604 SF, CA 94103
   c. Telephone number: 628-758-1963
   d. **The fee** for service was: $ 0.00
   e. I am:
   (1) [X] not a registered California process server.
   (2) [ ] exempt from registration under Business and Professions Code section 22350(b).
   (3) [ ] a registered California process server:
   (i) [ ] owner [ ] employee [ ] independent contractor.
   (ii) Registration No.:
   (iii) County:

8. [X] **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
   **or**
9. [ ] **I am a California sheriff or marshal and** I certify that the foregoing is true and correct.

Date: 4/10/2025

RAMONA M PENIKILA
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)



**For your protection and privacy, please press the Clear This Form button after you have printed the form.**

Print this form | Save this form | Clear this form

POS-010

| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): | FOR COURT USE ONLY |
|---|---|
| GARY M WAITE<br>PO Box 420545<br>San Francisco, CA 94142<br><br>TELEPHONE NO.: 415-877-0496 FAX NO. (Optional):<br>E-MAIL ADDRESS (Optional): garym.waite78@gmail.com<br>ATTORNEY FOR (Name): | ENDORSED<br>FILED<br>Superior Court of California<br>County of San Francisco<br>APR 21 2025<br>CLERK OF THE COURT<br>BY: BENJAMIN YUST<br>Deputy Clerk |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco<br>STREET ADDRESS: 400 Mc Allister St<br>MAILING ADDRESS: Room 103<br>CITY AND ZIP CODE: San Francisco, CA 94102<br>BRANCH NAME: Unlimited Civil Division | |
| PLAINTIFF/PETITIONER: Gary M Waite<br>DEFENDANT/RESPONDENT: Boyd Hotel LLC | CASE NUMBER:<br>CGC-25-624116 |
| **PROOF OF SERVICE OF SUMMONS** | Ref. No. or File No.: |

*(Separate proof of service is required for each party served.)*

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
   a. [X] summons
   b. [X] complaint
   c. [ ] Alternative Dispute Resolution (ADR) package
   d. [X] Civil Case Cover Sheet *(served in complex cases only)*
   e. [ ] cross-complaint
   f. [ ] other *(specify documents):*
3. a. Party served *(specify name of party as shown on documents served):*
   Boyd Hotel LLC
   b. [ ] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3a):*
4. Address where the party was served:
   783 28th Ave San Francisco, CA 94121
5. I served the party *(check proper box)*
   a. [ ] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* (2) at *(time):*
   b. [✓] **by substituted service.** On *(date):* 4-10-2025 at *(time):* 2:30PM I left the documents listed in item 2 with or in the presence of *(name and title or relationship to person indicated in item 3):* By Mail
      (1) [X] **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
      (2) [ ] **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
      (3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
      (4) [ ] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* from *(city):* or [ ] a declaration of mailing is attached.
      (5) [ ] I attach a **declaration of diligence** stating actions taken first to attempt personal service.

| PLAINTIFF/PETITIONER: Gary M Waite<br>DEFENDANT/RESPONDENT: Boyd Hotel LLC | CASE NUMBER:<br>CGC-25-624116 |
|---|---|

5. c. [X] **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
   (1) on *(date):* 4/10/2025 (2) from *(city):* San Francisco
   (3) [ ] with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. *(Attach completed* Notice and Acknowledgement of Receipt.*)* (Code Civ. Proc., § 415.30.)
   (4) [ ] to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

   d. [ ] **by other means** *(specify means of service and authorizing code section):*

   [ ] Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:
   a. [ ] as an individual defendant.
   b. [ ] as the person sued under the fictitious name of *(specify):*
   c. [ ] as occupant.
   d. [X] On behalf of *(specify):*
   under the following Code of Civil Procedure section:

| | |
|---|---|
| [X] 416.10 (corporation) | [ ] 415.95 (business organization, form unknown) |
| [ ] 416.20 (defunct corporation) | [ ] 416.60 (minor) |
| [ ] 416.30 (joint stock company/association) | [ ] 416.70 (ward or conservatee) |
| [ ] 416.40 (association or partnership) | [ ] 416.90 (authorized person) |
| [ ] 416.50 (public entity) | [ ] 415.46 (occupant) |
| | [ ] other: |

7. **Person who served papers**
   a. Name: Ramona Penikila
   b. Address: 34 6th Street Apt 604 San Francisco, CA 94103
   c. Telephone number: 415-756-1963
   d. **The fee** for service was: $ 0.00
   e. I am:
      (1) [X] not a registered California process server.
      (2) [ ] exempt from registration under Business and Professions Code section 22350(b).
      (3) [ ] a registered California process server:
         (i) [ ] owner [ ] employee [ ] independent contractor.
         (ii) Registration No.:
         (iii) County:

8. [X] **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
   **or**
9. [ ] **I am a California sheriff or marshal and** I certify that the foregoing is true and correct.

Date: 4/21/2025

Ramona Penikila
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

▶ [signature]
(SIGNATURE)





**PROOF OF SERVICE OF SUMMONS**

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CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address):*
GARY M WAITE
PO BOX 420545 SAN FRANCISCO, CA 94142

TELEPHONE NO.: 415-877-0496 FAX NO.:
EMAIL ADDRESS: garym.waite78@gmail.com
ATTORNEY FOR *(Name):* plaintiff in pro per

*FOR COURT USE ONLY*

ENDORSED
FILED
*Superior Court of California*
*County of San Francisco*

APR 08 2025

CLERK OF THE COURT
BY: BENJAMIN YUST
*Deputy Clerk*

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO
STREET ADDRESS: 400 Mc Allister Street
MAILING ADDRESS:
CITY AND ZIP CODE: SAN FRANCISCO, CA 94102
BRANCH NAME: UNLIMITED CIVIL DIVISION

CASE NAME:
GARY M WAITE VS TENDERLOIN HOUSING CLINIC, BOYD HOTEL LLC AND DOES 1-50

**CIVIL CASE COVER SHEET**

[X] **Unlimited** (Amount demanded exceeds $35,000)
[ ] **Limited** (Amount demanded is $35,000 or less)

**Complex Case Designation**

[ ] Counter [ ] Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: CGC-25-624116

JUDGE:
DEPT.:

*Items 1–6 below must be completed (see instructions on page 2).*

1. Check **one** box below for the case type that best describes this case:

**Auto Tort**
- [ ] Auto (22)
- [ ] Uninsured motorist (46)

**Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**
- [ ] Asbestos (04)
- [ ] Product liability (24)
- [ ] Medical malpractice (45)
- [X] Other PI/PD/WD (23)

**Non-PI/PD/WD (Other) Tort**
- [ ] Business tort/unfair business practice (07)
- [ ] Civil rights (08)
- [ ] Defamation (13)
- [ ] Fraud (16)
- [ ] Intellectual property (19)
- [ ] Professional negligence (25)
- [ ] Other non-PI/PD/WD tort (35)

**Employment**
- [ ] Wrongful termination (36)
- [ ] Other employment (15)

**Contract**
- [ ] Breach of contract/warranty (06)
- [ ] Rule 3.740 collections (09)
- [ ] Other collections (09)
- [ ] Insurance coverage (18)
- [ ] Other contract (37)

**Real Property**
- [ ] Eminent domain/Inverse condemnation (14)
- [ ] Wrongful eviction (33)
- [ ] Other real property (26)

**Unlawful Detainer**
- [ ] Commercial (31)
- [ ] Residential (32)
- [ ] Drugs (38)

**Judicial Review**
- [ ] Asset forfeiture (05)
- [ ] Petition re: arbitration award (11)
- [ ] Writ of mandate (02)
- [ ] Other judicial review (39)

**Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)**
- [ ] Antitrust/Trade regulation (03)
- [ ] Construction defect (10)
- [ ] Mass tort (40)
- [ ] Securities litigation (28)
- [ ] Environmental/Toxic tort (30)
- [ ] Insurance coverage claims arising from the above listed provisionally complex case types (41)

**Enforcement of Judgment**
- [ ] Enforcement of judgment (20)

**Miscellaneous Civil Complaint**
- [ ] RICO (27)
- [ ] Other complaint *(not specified above)* (42)

**Miscellaneous Civil Petition**
- [ ] Partnership and corporate governance (21)
- [ ] Other petition *(not specified above)* (43)

2. This case [ ] is [X] is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   a. [ ] Large number of separately represented parties
   b. [ ] Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   c. [ ] Substantial amount of documentary evidence
   d. [ ] Large number of witnesses
   e. [ ] Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   f. [ ] Substantial postjudgment judicial supervision
3. Remedies sought *(check all that apply):* a. [X] monetary b. [X] nonmonetary; declaratory or injunctive relief c. [X] punitive
4. Number of causes of action *(specify):* 12
5. This case [ ] is [X] is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. *(You may use form CM-015.)*

Date: 04/08/2025
GARY M WAITE
(TYPE OR PRINT NAME)

Gary M Waite
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**
- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.



Form Adopted for Mandatory Use
Judicial Council of California
CM-010 [Rev. January 1, 2024]

**CIVIL CASE COVER SHEET**

Cal. Rules of Court, rules 2.30, 3.220, 3.400–3.403, 3.740;
Cal. Standards of Judicial Administration, std. 3.10
www.courts.ca.gov

SUM-100

# SUMMONS
## (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:**
***(AVISO AL DEMANDADO):***
TENDERLOIN HOUSING CLINIC, BOYD HOTEL LLC, & DOES 1-50

**YOU ARE BEING SUED BY PLAINTIFF:**
***(LO ESTÁ DEMANDANDO EL DEMANDANTE):***
GARY M WAITE

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (*www.lawhelpcalifornia.org*), the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of $10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

***¡AVISO!*** *Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.*

*Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

*Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de $10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.*

The name and address of the court is: SF Superior Court
*(El nombre y dirección de la corte es):* 400 Mc Alister Street SF, CA 94102

CASE NUMBER:
*(Número del Caso):* CGC-25-624116

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
*(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):*
GARY M WAITE PO BOX 420545 SAN FRANCISCO, CA 94142 415-879-0490

DATE: 04-08-2025 *(Fecha)* APR 0 8 2025 Clerk, by *(Secretario)* BENJAMIN YUST , Deputy *(Adjunto)*

*(For proof of service of this summons, use* Proof of Service of Summons *(form POS-010).)*
*(Para prueba de entrega de esta citatión use el formulario* Proof of Service of Summons, *(POS-010)).*

[SEAL]

**NOTICE TO THE PERSON SERVED:** You are served
1. [X] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify):*
3. [ ] on behalf of *(specify):*
   under: [ ] CCP 416.10 (corporation) [ ] CCP 416.60 (minor)
   [ ] CCP 416.20 (defunct corporation) [ ] CCP 416.70 (conservatee)
   [ ] CCP 416.40 (association or partnership) [ ] CCP 416.90 (authorized person)
   [X] other *(specify):* NON-PROFIT ORG
4. [ ] by personal delivery on *(date):*



Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. July 1, 2009]

**SUMMONS**

Code of Civil Procedure §§ 412.20, 465
www.courts.ca.gov

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GARY M WAITE
PO BOX 420545
SAN FRANCISCO, CA 94142
(415) 877-0496
Email: garym.waite78@gmail.com

In Pro Per

ENDORSED
FILED
Superior Court of California
County of San Francisco
APR 08 2025
CLERK OF THE COURT
BY: BENJAMIN YUST
Deputy Clerk

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED CIVIL DIVISION

GARY M WAITE,

Plaintiff,

Vs

TENDERLOIN HOUSING CLINIC & BOYD HOTEL LLC,

AND DOES 1-50,

Defendants.

CASE NO. CGC-25-624116

**COMPLAINT FOR DAMAGES**

1. **Breach of the Implied Warranty of Habitability**
2. **Violation of Statute (Civil Code §§ 1941.1, 1941.3, 1942.4, Health & Safety Code 17920.3)**
3. **Retaliation in Violation of Statute(Civil Code 1942.5)**
4. **Unfair Business Practices in violation of Bus. & Professions Code § 17200**
5. **Violation of Health and Safety Code § 13260**
6. **Nuisance**
7. **Negligence**
8. **Breach of Contract**
9. **Intentional Infliction of Emotional Distress**
10. **Breach of the San Francisco Residential Rent Stabilization Code § 37.3**
11. **Breach of the San Francisco Residential Rent Stabilization Code § 37.10B**
12. **Maintenance of a drug nuisance pursuant to Health & Safety Code § 11570**

Case filed: 04/08/2025

Trial Date:

## THE PARTIES

1. Plaintiff Gary M Waite, ("Waite 401") is a current resident of the City and County of San Francisco, and prior resident of 41 Jones Street, Unit #401, San Francisco, CA, 94102. 41 Jones Street is a (SRO) Single Room Occupancy Hotel at the corner of Golden Gate and Jones Street in San Francisco, ("Premises").

2. Defendant Tenderloin Housing Clinic, with its principal place of business 128 Hyde Street in San Francisco, California and is 100% owner of the property management company located at 41 Jones Street San Francisco, CA 94102, ("Premises").

3. Defendant Boyd Hotel LLC is 100% owner of the Premises, & owner of the LLC located at 41 Jones Street San Francisco, CA 94102.

4. The true names and capacities of the Defendants sued as Does are unknown to Plaintiffs. Once Plaintiffs become aware of the true names and capacities of Defendants sued as Does, Plaintiffs will amend the Complaint to reflect the true names and capacities of those defendants.
In committing the acts complained here, each Defendants, acted as an authorized agent, employees or other representatives of each other Defendant. Each act of each Defendant complaining of herein was committed within the scope of the said agency, employment or other representation.

## JURISDICTION AND VENUE

5. This court is the proper court because the damage to Plaintiffs and the making of their written contract, which is the subject of this action in part, exclusively occurred within its jurisdictional area of the City and County of San Francisco.

6. Plaintiffs have suffered and Defendants have proximately caused property damages, loss of use of property, personal harassment, and general damage that includes loss of use of property, personal injury, bodily injury and emotional distress in amounts to be demonstrated by proof at the time of trial.

7. In committing the acts complained of herein, Defendants acted willfully and with malice, oppression and bad faith, intending by their acts to cause Plaintiffs to involuntarily vacate their homes. Plaintiffs are entitled to recover punitive damages according to law and statute in amounts to be demonstrated by proof at the time of the trial.

8. Plaintiffs were always relevant to the claims made herein lawful residential tenants of Defendants at the Premises located at 41 Jones Street, San Francisco, CA, 94102.

9. Plaintiffs as lessees and Defendants as lessors entered written contracts for the Premises. The contracts, and all of them, were entered into in San Francisco and were intended to be performed here.

10. The contracts provided in relevant part for rent to be paid by Plaintiffs and required Defendants to provide dwellings fit for his residential use. Implied in the contracts were the warranty of habitability and the covenant of quiet use and enjoyment.

11. At the time Defendants rented the Premises to Plaintiffs, and thereafter during the term of Plaintiffs' tenancies, there existed and continued to exist, certain defects in the Premises which render the Premises uninhabitable for occupancy to human beings, and which violated the agreement between Plaintiffs and Defendant for the provision of Premises which were fit for the intended residential use. Said defects did not arise through Plaintiffs' acts or omissions and certain specific defects and problems were noted throughout 2021, 2022, 2024 and continue into 2025 without adequate subsequent remediations. These habitability defects include, but are not limited to the following:

- non-functioning, poorly functioning and poorly maintained sinks.
- non-functioning, poorly functioning and poorly maintained toilets.
- recurrent, substantial plumbing and pipe leaks.
- structural cracks and some evidence of structural failure.
- water dripping from ceiling indicating past or present roof failure, extreme water intrusion damage.
- non-conforming hazardous and defective plumbing installations and fixtures and severe, toxic, mold infestation.
- Plaintiffs' units are plagued by hazardous, dangerous mold, causing Plaintiffs extreme and potentially permanent health problems.
- Windows are either broken or do not open or close properly and Defendants have intentionally failed to provide adequate weather protection.

- Most of Plaintiffs' units do not have carbon monoxide detectors, more than half of Plaintiffs' units do not have working smoke detectors.
- Infestation of Roaches and Mice throughout the building.
- Unlawful rent increases and collection practices including the following:
    - Defendants would harass and demand the rent despite the dilapidated conditions of the building, moreover, if rent was late in their opinions, Defendant Tenderloin Housing Clinic would personally go, or send agents/employees to the place of residence of tenants to demand the rent and humiliate them in front of other tenants.
    - There is rampant drug use and drug trafficking throughout the building and at least one known unit is used for the exclusive purpose of drug sales and use.
    - There is also frequent prostitution throughout the building and at least one known unit is used for the exclusive purpose of prostitution.
    - The building is not properly secured, and there is easy access for pimps, johns and prostitutes, drug dealers and drug buyers, homeless people and anyone else that seeks to enter the building for unlawful purposes.
    - The entire building, including all the common areas, are filthy, including stained, mold runs rampant and there is blood on the walls and staircases.

12. Plaintiff has complained repeatedly to Defendants about the defects affecting the habitability of the Premises. Prior to the acts or omissions complained of herein, Defendants knew of defects directly and personally, and were informed of the defective conditions but failed to render the Premises habitable.

13. Defendants had and had actual and constructive knowledge of each defective condition, and failed to correct them all, or in a reasonable period, or in any competent and professional manner, or to stop these acts, which were intentional, acts against Plaintiffs.

14. Defendants knew, or in the exercise of ordinary care should have known, that permitting the above-described defective conditions to exist was a threat to the physical and emotional well-being of the Plaintiffs and to the Plaintiffs' material possessions.

15. Defendants owed Plaintiffs a duty of care to avoid injuring the person and property of Plaintiffs. By failing to maintain and repair the Premises with knowledge of the existence of the defective conditions, defendants breached their duty of care to Plaintiffs.

16. As a direct, proximate and foreseeable result of Defendants' failure to correct the defective conditions described above, Plaintiffs suffered property damage and economic loss in an amount to be proven.

17. As a direct, proximate and foreseeable result of Defendants' failure to correct the defective conditions described above, Plaintiffs suffered damages to their health and strength including damages for emotional and psychological distress. Injuries have caused Plaintiffs physical, nervous and psychological pain, suffering and anguish. These injuries have caused Plaintiffs general damage according to proof. Additionally, Plaintiffs allege and believe that the bacteria from the mold have caused severe health complications to various Plaintiffs.

18. Defendants, knowing at the time of execution of the lease that the units were uninhabitable, and the Premises dangerous and were also aware that they would be negligent in the maintenance of the Premises, included in the contracts an environmental indemnification clause that is against public policy.

**FIRST CAUSE OF ACTION**
**(As to all Defendants- Breach of the Implied Warranty of Habitability)**

60. The allegations of Paragraphs 1 through 59 above are realleged and incorporated herein by reference.

61. By renting the Premises to Plaintiffs, Defendants impliedly warranted to provide and maintain those Premises in a habitable condition. Defendants therefore owed a legal duty to Plaintiffs to use due care to provide and maintain habitable Premises. By committing the acts and omissions complained of above, Defendants breached their duty. Defendants, breach of their legal duty caused, and proximately caused, the damage to the Plaintiff complained of above.

62. As a proximate result of Defendant's unlawful acts against Plaintiffs, Plaintiffs have suffered and continue to suffer substantial embarrassment, humiliation and mental anguish damages in an amount according to proof.

63. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively, with the wrongful intention of harassing Plaintiffs, from an improper and evil motive amounting to malice, and in conscious disregard of Plaintiffs' rights and safety. Plaintiffs are therefore entitled to recover punitive damages from Defendants in an amount according to proof.

**SECOND CAUSE OF ACTION**
**(As to all Defendants-Violation of Statutory Warrantee of Habitability under Civil Code sections 1941.1, 1941.3 and Health and Safety Code section 17920.3)**

67. The allegations of Paragraphs 1 through 63 above are realleged and incorporated herein by reference.

68. The laws of the State of California, including but not limited to California Civil Code §§1941.1, 1941.3, and Health & Safety Code § 17920.3 require Defendants to provide and maintain habitable Premises for Plaintiffs. By their acts and omissions Defendants materially breached the requirements of Civil Code §§ 1941, 1941.3 and Health and Safety Code §17920.3 and their duty to Plaintiffs. By that breach, Defendants caused and proximately caused damage and injuries to Plaintiffs complained of herein, entitling Plaintiffs to damages according to proof.

69. Further, Defendants were informed in writing by a public officer or employee who is responsible for the enforcement of housing laws of the above-enumerated dilapidations and substandard conditions; the conditions existed and were not abated 35 days beyond the date of service of the public officer's notice, and were not caused by acts or omissions of the tenants. As such, Plaintiffs are entitled to an award of special damages and the cost of their reasonable attorney fees as detailed in Civil Code section 1942.4.

70. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively, with the wrongful intention of harassing Plaintiffs, from an improper and evil motive amounting to malice, and in conscious disregard of Plaintiffs' rights and safety. Plaintiffs are therefore entitled to recover punitive damages from Defendants in an amount according to proof.

**THIRD CAUSE OF ACTION**
**(As to all Defendants- Retaliation in Violation of Civil Code § 1942.5)**

71. The allegations of Paragraphs 1 through 70 are realleged and incorporated herein by reference.

76. California Civil Code § 1942.5 makes it unlawful for a landlord to retaliate against tenants who complaint about violations of tenability by making threats against such tenants that landlord will bring an action to recover possession, and by bringing an action to recover possession.

77. By their acts, Defendants materially breached the requirements of CCC§ 1942.5, and did so in a fashion that was fraudulent, oppressive, and malicious; Plaintiffs are entitled to an award of damages according to proof, to an award of punitive damages under CC § 1942.5, and to an award of their reasonable attorney fees under that same section.

**FOURTH CAUSE OF ACTION**
**(As to all Defendants- Unfair Business Practices in Violation of B&P§ 17200)**

78. The allegations of Paragraphs 1 through 77 are realleged and incorporated herein by reference.

79. California Business & Professions Code § 17200 makes it unlawful to engage in unlawful, unfair or fraudulent business acts or practices.

80. By the acts and omissions detailed above Defendants in the renting of real property engaged in business acts and practices which were variously unlawful, unfair, and fraudulent. Plaintiffs are entitled to the restoration of monies taken from them by these unlawful, unfair, and fraudulent business practices.

**FIFTH CAUSE OF ACTION**
**(As to all Defendants- Violation of Health & Safety Code § 13260 et. seq.)**

81. The allegations of Paragraphs 1 through 80 are re-alleged and incorporated herein by reference.

82. California Health and Safety Code section 13260 *et seq.* obligates Defendants to install a carbon monoxide alarm device in each dwelling unit intended for human occupancy on or before January 1, 2022.

83. Defendants failed to install such devices on the Premises and have not done so.

85. Wherefore Plaintiffs are entitled to an award of actual damages of up to $100, exclusive of court costs and attorney fees, according to proof.

**SIXTH CAUSE OF ACTION**
**(As to all Defendants-Nuisance)**

86. The allegations of Paragraphs 1 through 85 are realleged and incorporated herein by reference.

87. On or about July 22, 2022, Defendants caused to be submitted to the San Francisco Department of Building Inspection an "affidavit of self-certification" regarding their compliance with the carbon monoxide alarm installation requirements of H&S 13260 and local law.

88. Despite their certification, Defendants have not in fact complied with H&S 13260 and local law and have not in fact caused carbon monoxide alarms to be set at the premises.

89. Defendants' actions were fraudulent; they intended to mislead the Department of Building Inspection and to avoid their lawful obligation to install carbon monoxide alarms. The acts complained of above constitute a nuisance insofar as they constitute an unreasonable interference with Plaintiffs' use and enjoyment of their property.

90. Insofar as Defendants have received notices of violation from the City and County of San Francisco regarding their failure to install carbon monoxide alarms and have, rather than install such alarms, defrauded the city regarding their installation, Plaintiffs are obligated to bring suit to enforce their interests. Defendants' actions were willful, fraudulent, and malicious, and entitled Plaintiffs to an award of punitive damages.

91. Wherefore Plaintiffs seek abatement of the nuisance, damages according to proof, and an award of punitive damages to deter such conduct on Defendants' part in the future.

**SEVENTH CAUSE OF ACTION**
**(As to all Defendants-Negligence)**

92. The allegations of Paragraphs 1 through 80 are re-alleged and incorporated herein by reference.

93. Defendants by their relationship as landlords owed a duty of care to Plaintiffs.

94. Defendants by the acts and omissions detailed above breached their duty of care to Plaintiff.

95. Defendants' breach of their duty of care proximately caused the damage suffered by Plaintiffs.

96. Wherefore Plaintiffs are entitled to damages according to proof.

**EIGHTH CAUSE OF ACTION**
**(As to all Defendants-Breach of Contract)**

97. The allegations of Paragraphs 1 through 96 are realleged and incorporated herein by reference.

98. In committing the acts complained of above, Defendants breached the terms of the rental agreements for the Premises for the provision of dwellings fit for their intended use. Each of these Plaintiffs executed a written rental agreement.

99. Wherefore Plaintiffs seek damages according to proof.

**NINTH CAUSE OF ACTION**
**(As to all Defendants-Intentional Infliction of Emotional Distress)**

100. The allegations of Paragraphs 1 through 99 are realleged and incorporated herein by reference.

101. Defendants' acts and failures to act as alleged herein are extreme and outrageous conduct beyond all bound of decency.

102. Defendants' conduct was knowing, intentional and willful. Defendants had full knowledge or substantial certainty of the extreme mental distress that their conduct would cause Plaintiffs. Defendants acted with intentional disregard for the reasonably foreseeable consequences of their actions.

103. Defendants acted with the intention of causing, and/or reckless disregard for the probability of causing, emotional distress to Plaintiffs when they, *inter alia,* failed to make timely and necessary repairs to the Premises as required under the implied warranty of habitability, intentionally interfered with Plaintiff's quiet use and enjoyment of the Premises, and in retaliation of Plaintiff's complaints served them with an eviction notice.

104. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs have suffered extreme mental distress to their general detriment in an amount according to proof. Plaintiffs have suffered stress, worry, and anxiety because of Defendants' acts.

105. The actions of Defendants as described above were done with oppression, fraud, and malice as defined in Civil Code § 3924. Accordingly, Plaintiff should recover, in additional to actual damages, damages to make an example of and to punish Defendant.

**TENTH CAUSE OF ACTION**
**(By Plaintiffs Hugo56, Vilma 56 and May 50, as to all Defendants-**
**Breach of the San Francisco Residential Rent Stabilization Code § 37.3)**

106. The allegations of Paragraphs 1 through 105 are realleged and incorporated herein by reference.

107. Section 37.11A of the Ordinance states "Whenever a landlord charges a tenant a rent which exceeds the limitations set forth in this Chapter, retaliates against a tenant for the exercise of any rights under this Chapter, or attempts to prevent a tenant from acquiring any rights under this Chapter, the tenant may institute a civil proceeding for money damages."

108. Section 37.3 of the Ordinance defines the circumstances by which a landlord may lawfully increase the base rent for a rental unit. No such circumstances existed with respect to the rent increases alleged in the complaint.

109. Defendants and each of them intended to, and subsequently did, deprive Plaintiffs of their rights under Section 37.3 of the Ordinance by unlawfully raising Plaintiffs' rent.

110. As a result of defendants' violations of Section 37.11A of the Ordinance, Plaintiffs were required to retain counsel to enforce their legal rights and are entitled to their damages according to proof and their reasonable attorney fees.

**ELEVENTH CAUSE OF ACTION**
**(As to all Defendants-Breach of the San Francisco Residential Rent Stabilization Code § 37.10B)**

111. The allegations of Paragraphs 1 through 110 are realleged and incorporated herein by reference.

112. Section 37.10B of the Ordinance prohibits landlords or their agents from engaging in certain conduct in bad faith. Those prohibited include:

a. Interrupting, terminating, or failing to provide housing services required by contract or by State, County or local housing, health and safety laws.

b. failing to perform repairs and maintenance required by contract or by State, County or local housing, health or safety laws.

c. interfering with a tenant's right to quiet use and enjoyment of a rental housing unit as that right is defined by California law.

d. influencing or attempting to influence a tenant to vacate a rental housing unit through fraud, intimidation or coercion; and

e. Threaten the tenant, by word or gesture, with physical harm.

f. Violate any law which prohibits discrimination based on actual or perceived race, gender, sexual preference, sexual orientation, ethnic background, nationality, place of birth, immigration or citizenship status, religion, age, parenthood, marriage, pregnancy, disability, AIDS or occupancy by a minor child.

g. Interfere with a tenant's right to quiet use and enjoyment of a rental housing unit as that right is defined by California law.

h. Refuse to accept or acknowledge receipt of a tenant's lawful rent payment.

i. Interfere with a tenant's right to privacy.

j. Request information that violates a tenant's right to privacy, including but not limited to residence or citizenship status or social security number.

k. Other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of such dwelling unit and that cause, are likely to cause, or are intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy.

113. Defendants and each of them intended in bad faith to, and subsequently did, consciously, intentionally, and in bad faith violate Plaintiff's rights under Section 37.10B of the Ordinance, including by failing and refusing to promptly and diligently perform legally required repairs and maintenance to the Premises, and by violating Plaintiff's quiet enjoyment rights. As a direct, proximate and foreseeable result of defendants' misconduct, Plaintiffs have suffered damages in an amount to be proven at trial, but more than $10,000,000.00.

114. Pursuant to Section 37.10B(c)(5) of the Ordinance, Plaintiffs are entitled to damages(with respect to each and every offense violating Section 37.10B of the Ordinance) from defendants and each of them in an amount not less than three (3) times Plaintiff's actual damages or statutory damages in the sum of $1000.00 per violation, whichever is greater.

115. The acts of defendants and each of them, as heretofore alleged, were extreme and outrageous and done with conscious disregard for the rights of Plaintiffs, and in deliberate and callous disregard of the habitability and quiet enjoyment complaints made by Plaintiffs. Defendants knew that Plaintiffs were susceptible to added discomfort because of the conduct described, knew that the conduct adversely affects Plaintiffs, had the wherewithal to remedy the defective housing conditions and quiet enjoyment violations, but consciously refused to do so, in deliberate violation of Plaintiffs' legal rights. Plaintiffs are therefore entitled to Punitive damages under Civil Code Section 3294 as against defendants in an amount according to proof.

116. As a result of defendants' violations of Section 37.10B of the Ordinance, Plaintiffs were required to retain counsel to enforce their legal rights and are entitled to an award of attorney fees.

**TWELFTH CAUSE OF ACTION**
**(As to all Defendants-Breach of Health & Safety Code § 11570)**
**(Drug Nuisance Abatement-Health & Safety Code § 11570)**

117. The allegations of Paragraphs 1 through 116 are realleged and incorporated herein by reference.

118. Plaintiffs bring this action pursuant to California Health and Safety Code section, 11571.5, to enjoin and abate nuisances caused by acts of unlawful selling, serving, storing, keeping, manufacturing or giving away of any controlled substance, precursor or analog as specified in the California Health and Safety Code.

119. Defendants, as owners of the Property, and Does 1 through 50, as employees and agents of the owner of the Property, have been using, maintaining, or permitting the use of these premises for the unlawful sale, storage, maintenance or manufacturing of controlled substances for at least the last year.

120. The maintenance and existence of the premises at the Property as a place used for the unlawful sale, storage, distribution or manufacture of controlled substances, and as a place where unlawful drug activities have taken place and are now taking place, constitutes a public nuisance pursuant to California Health and Safety Code section 11570 et seq.

121. The nuisance has not been abated. Unless Defendants are enjoined by an order of this Court, they will continue to use, occupy, maintain, and allow or permit the use, occupation and maintenance of this Property, together with fixtures and movable property located therein, for the unlawful drug activities alleged in this complain, and encourage the further maintenance of this nuisance on these premises, to the irreparable damage of Plaintiffs, all other tenants and the general public.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment as follows:

A. That the property at 41 Jones Street in San Francisco, California together with the fixtures and movable property therein and thereon, be declared a public nuisance and permanently abated in accordance with sections 11570 through 11581 of the California Health and Safety Code.

B. For general and special damages according to proof.

C. For statutory damages.

D. That a civil penalty not to exceed Twenty-Five thousand Dollars ($25,000.00) be assessed against each Defendant pursuant to California Health and Safety Code 11581, et seq.

E. That Defendants be ordered to abate all conditions which cause the nuisance.

F. That Defendants be enjoyed from occupying the Property and/or allowing the Property to be occupied until such time as the building on the Property is brought up to code or demolished.

G. The recordation of an abstract of judgment in this case constitutes a prior line that may be held on the Property by any Defendant to this action.

H. Prejudgment interest, unless duplicative of relief obtained under other causes of action.

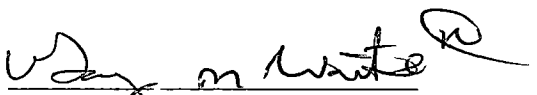
I. For attorney's fees pursuant to statute including but not limited to California Civil Code §§ 1941.1, 1942.4, Health & Safety Code 11352.

J. That Defendants disgorge all wrongly retained profits under Business and Professions Code section 17200.

K. For punitive damages according to proof.

L. For all other relief which the Court deems proper and just.

Dated: April 8th, 2025, Respectfully Submitted



Gary M Waite
Plaintiff In Pro Per

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In Pro Per

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

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|---|---|
| GARY M WAITE & DARRYL EVERETT CHRISTOPHER BYRD,<br><br>Plaintiffs,<br><br>VS<br><br>TENDERLOIN HOUSING CLINIC & BOYD HOTEL LLC DOES 1-10,<br><br>Defendants. | CASE NO. CGC-25-624116<br><br>**Amended Complaint Changes**<br><br>Date Filed: 04/24/2025 |

1.) Added Plaintiff Darryl Everett Christopher Byrd
2.) Added on Page 4 Lines 16-22
3.) Added on Page 6 Lines 9-28
4.) Added on Page 7 Lines 1-8
5.) Added on Page 16 Lines 1-3
6.) Added on Page 16 Lines 20-21

Respectfully Submitted this 24th Day of April 2025